

**Department of Health and Human Services  
Health Care Financing Administration  
Operational Policy Letter #99  
OPL 99.099**

**Date: July 7, 1999**

<b>To:</b>	M+C Organizations	<u>  X  </u>
	Section 1876 Cost Plans <sup>1</sup>	<u>  X  </u>
	CHPP Demonstrations	
	Evercare	<u>  X  </u>
	DoD (TriCare)	<u>  X  </u>
	SHMO I & II	<u>  X  </u>
	PACE	
	Medicare Choices	<u>  X  </u>
	Competitive Pricing	
	OSP Demonstrations	
	MSHO	_____
	W.P.S.	
	HCPPs	
	Federally Qualified HMOs	

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<sup>1</sup>*This OPL is primarily intended for M+C organizations and other demonstration projects for which BBA statutory provisions and related regulations are applicable. Most of the information included in this OPL does, however, also apply to Section 1876 cost-contracting plans. For example, although 1876 cost-contracting plans have until December 2 to notify members of changes in rules that will be effective in January 2000 [42 CFR 417.436(c)], HCFA strongly encourages cost-contracting plans to notify members at an earlier date, so members can fully participate in November coordinated, annual election period activities. Additionally, cost-contracting plans are expected to use the SB as their primary pre-enrollment marketing tool beginning October 15 and also as part of their annual notification of change.*

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**Subject:** Medicare+Choice (M+C) Marketing Time Lines

**Purpose:** The purpose of this OPL is to establish time frames for marketing activities by M+C organizations (M+CO). The Balanced Budget Act 1997 (BBA) establishes an annual, coordinated election period. The BBA also requires a nationally coordinated educational and publicity campaign (health information fair) which is to inform M+C eligible individuals of the election process related to M+C plans available to them. Beginning in 1999, the month of November (for January 1, 2000, elections) is established as the coordinated, annual election period. [Section 1851(e)(3) of the BBA]. In order to ensure the success of the coordinated, annual election period and to enhance beneficiary understanding of and participation in coordinated, annual election period activities, HCFA is establishing the following time lines for M+C marketing activities.

**Renewing M+CO Marketing Time Line**

**Item 1:** For all enrollees except those whose enrollment is through an employer group, M+COs will be required to use the standardized Summary of Benefits (SB) as part of the Annual Notice of Change (ANC). A final version of the standardized SB is currently available on the Internet at [www.hcfa.gov](http://www.hcfa.gov). All contracting M+COs were e-mailed an interim version of the standardized Summary of Benefits on June 10 via a memorandum from Robert A. Berenson, M.D., Director of the Center for Health Plans and providers and Carol Cronin, Director of the Center for Beneficiary Services. M+COs must use the final version of the SB and describe January 2000 benefit and premium plan-specific offerings. A cover letter or note must accompany the SB which highlights the specific changes in benefits, premiums and plan rules that will be effective on January 1, 2000. Additionally, the cover letter/note must identify the specific plan in the attached SB in which the member is currently enrolled, if the M+CO lists more than one plan offering in the attached SB. M+COs will need to submit both the cover letter/note and the plan-specific SB to their local Regional Office (RO) for review and approval prior to use. Submission to the RO must be made prior to September 1, to allow the RO sufficient time for review, comment and approval before October 15 - the date by which M+COs are required to notify current enrollees of January 1 changes to their plan. M+COs are permitted to use a lower grade paper for the SB they will use as part of the annual notification process than the high-gloss paper they might ordinarily use when distributing the SB as a marketing piece. (Instructions on completion of the Annual Notice of Change are attached to this OPL).

**Item 2:** Many M+COs have expressed a desire to receive RO review and approval of their January 2000 benefit package marketing materials in an expedited manner. The M+COs would like to deliver their plan-specific information to current enrollees prior to or at the same time that Medicare Compare goes live on the Internet on September 15, and/or prior to HCFA's mailing of

the *Medicare and You* Handbook, which will also begin around September 15. To ensure a timely review of marketing materials for January 2000 benefit packages, M+COs should not submit any additional 1999 marketing materials for review and approval on or after July 15, 1999. Additionally, M+COs that would like to send annual notices to current members before October 15 should submit SBs and the appropriate cover letter/note to local ROs as soon as possible, to ensure sufficient time for RO review and approval. The ROs are committed to providing a quick turn-around on January 2000 annual notice materials received on or before July 15. HCFA will make every effort to provide concurrent review of Adjusted Community Rate Proposals and January 2000 annual notice materials in such a way that all M+COs in a market area will receive simultaneous notification of ACR and annual notice material approval.

**Item 3:** As stated in OPL 99.089, HCFA plans to begin its Local Information Campaign as early as September 1. Additionally, Medicare Compare will go live on the Internet on September 15, and HCFA's mailing of the *Medicare and You* Handbook will begin around September 15. For these reasons, as of October 15, M+COs should cease actively marketing 1999 benefit packages through any public media to prevent beneficiary confusion. (Public media includes: Billboards, radio, TV and print advertisements, and direct mail). Effective October 15, all M+COs that pursue active marketing must begin using approved 2000 benefit package marketing materials.

**Item 4:** Effective October 15, all marketing presentations and all mailings to Medicare beneficiaries inquiring about January 2000 enrollment (Annual Election Period) must include a standardized Summary of Benefits describing January 2000 benefit package information. Renewing plans may continue to send and provide oral presentations on 1999 plan information to individuals who specifically ask for it and may continue to enroll individuals for effective dates prior to January 2000, based on the plan being “open” and on other requirements of the law, regulations, and previously issued OPLs.

**Item 5:** Effective September 1 (by which time HCFA expects to have approved January 2000 Adjusted Community Rate Proposals), whenever an M+CO advertises a 1999 benefit, premium or copayment that will change effective January 1, 2000, (or whenever an M+CO accepts an election form for an effective date in 1999 after September 1), the M+CO must provide a prominently displayed attachment or addendum to previously approved marketing materials, advertisements and enrollment election forms that alerts potential members to the fact that changes will occur on January 1. If the M+CO uses the following language verbatim, the modification of previously approved marketing materials will not require an additional RO review prior to use. If the language is modified, RO review and approval will be necessary prior to use.

Disclaimer to be used in marketing and enrollment beginning September 1, 1999, when changes will occur effective January 1, 2000:

“Benefits, premiums and copayments will change on January 1, 2000. Please contact <insert plan name> for details.”

### **Chart: Marketing Time Line for Renewing Plans**

DATE	REQUIREMENT/ACTIVITY
<i>July 15</i>	Date by which SBs and annual notice materials must be submitted to the ROs, to ensure simultaneous ACR/ANOC/SB approval [Item 2]
	Date on which M+COs should cease submitting additional 1999 marketing materials for RO review [Item 2]
<i>September 1</i>	Date by which 1/2000 ACRPs have been approved [Item 5]
	Local Information Campaign begins [Item 3]
	Date on which M+COs must indicate that changes to benefits, premiums and copays will occur on January 1, 2000, whenever they market 1999 benefits or accept enrollments for 1999 effective dates [Item 5]
<i>September 15</i>	Medicare Compare goes live [Items 2 and 3]
	Mailing of <i>Medicare and You</i> Handbook by HCFA begins [Items 2 and 3]
<i>October 15</i>	Date by which M+COs are required to provide annual notice of change (including SB) to current members [Item 1]
	Date on which M+COs should cease marketing 1999 benefit packages through public media and begin marketing 1/2000 benefit packages [Item 3]
	Date on which all marketing presentations and mailings to beneficiaries inquiring about 1/2000 enrollment must include an SB [Item 4]

### **Marketing Time Line for Non-renewing Plans**

**Item 6:** We strongly encourage all non-renewing plans (and plans nonrenewing specific counties) to cease all marketing and enrollment activities related to the nonrenewing plan/service area by July 1, 1999. The 30-day public notice requirement is waived. Public notice and closing enrollment, in this case, may be simultaneous. All non-renewing plans (and plans non-renewing specific counties) should cease all marketing and enrollment activities related to the nonrenewing plan/service area on September 1, 1999. (Note: This does not include enrollees whose source of enrollment is through an employer group). Additional requirements will be provided to nonrenewing plans at the time HCFA is formally notified of nonrenewal decisions.

**Item 7:** If nonrenewing plans (and plans nonrenewing specific counties) continue enrollment between July 1 and August 31 and/or continue marketing, then marketing and enrollment election materials must provide notice to prospective enrollees of their decision to nonrenew or reduce the service area. The notice must be prominently displayed in all marketing materials, enrollment election materials and advertisements for the nonrenewing plan. Regulations at 42 CFR 422.80(c)(1)(I) and (iv) require that Medicare + Choice organizations provide an adequate

description of M+C plan rules as well as any other information necessary to enable beneficiaries to make an informed decision about enrollment. Plans must provide a prominently displayed attachment or addendum to current marketing materials, advertisements and enrollment election forms that will alert potential members of the decision to not renew or reduce the service area of the M+C contract, and the effect of this decision on enrollees in January 2000. An example of language that may be used in such an attachment or addendum is:

“ <insert plan name> (will be nonrenewing its Medicare +Choice contract) or (will not be serving the following counties: <insert county names>) effective December 31, 1999. You may choose through August 31, 1999, to enroll in our plan, but your coverage will automatically end on December 31, 1999, (insert, if appropriate <if you reside in one of the counties we will not be serving>). If you do not enroll in another plan effective January 1, 2000, you will be returned to original Medicare on that date. You will receive additional information in September concerning your rights and additional options.”

The addendum to plan marketing materials, advertisements and enrollment election forms must be attached as soon as HCFA is formally notified of your nonrenewal/service area reduction decision. Sales representatives must use this language in all oral presentations related to the nonrenewing plan/service area, both at the beginning and the end of such presentations. Plans should submit language to be used in the addendum to their RO for review and approval.

#### **Chart: Marketing Time Line for Non-renewing Plans**

<b>DATE</b>	<b>REQUIREMENT/ACTIVITY</b>
<i>July 1</i>	Date on which M+COs nonrenewing plans/counties should stop marketing/enrollment in nonrenewing area [Item 6]
	Date on which public notice indicating enrollment is closed in nonrenewing area should appear [Item 6]
	Date on which language indicating that plan/county is nonrenewing must accompany continued marketing of the nonrenewing plan, if M+CO insists on continued marketing of nonrenewing plan/county [Item 7]
<i>September 1</i>	Date on which marketing of nonrenewing plan/counties should cease [Item 6]

Attachment

**Contact: HCFA Regional Office Managed Care Staff**

*This OPL was prepared by the Center for Health Plans and Providers.*

**SUMMARY OF ANNUAL NOTIFICATION REQUIREMENTS - ATTACHMENT**

**Regulatory Requirements**

As stated in 42 CFR 422.111(a), M+C organizations must "disclose the information specified in 42 CFR 422.64 and in paragraph (b) of this section--(1) To each enrollee electing an M+C plan it offers; (2) in clear, accurate, and standardized form; and (3) at the time of enrollment and at least annually thereafter." To comply with this requirement, M+C plans must send members a copy of the Evidence of Coverage (EOC) as well as a standardized summary of benefits at least once a year.

As stated in 42 CFR 422.111(d) [as amended by the 2/17/99 interim final rule]: "If an organization intends to change its rules for an M+C plan it must: (1) Submit the changes for HCFA review under the procedure of 422.80; and (2) For changes that take effect on January 1, notify all enrollees by the previous October 15." This October 15 annual notice must include the standardized summary of benefits. The annual notice may be sent with the EOC or separately. (For example, if a plan has not yet revised and finalized its EOC as of October 15, then the plan may send the EOC under separate cover after October 15, once it has been finalized and printed.)

If there are no changes in a health plan's Medicare product for the coming year (i.e., neither changes made by the plan nor any new benefits covered by Medicare), the M+C plan is still required to send a standardized summary of benefits by October 15 with a cover letter that explains that there will be no changes.

### **Required Information for Annual Notices**

The cover letter or note that accompanies the standardized summary of benefits must contain the following information:

1. Explanation of Contract Renewal. Explain that Medicare has reviewed and approved the changes indicated in the letter and that the changes are effective for the following calendar year.
2. Effective Date. The notice should clearly state the effective date of the changes - January 1 of the following year.
3. Description of Changes. The notice should clearly identify all changes to benefits, premiums, copayments, and other costs to the member, and rules should be clearly and completely described in the notice. Comparative charts may be helpful (but are not required) to explain benefit changes. However, use of the standardized summary of benefits as part of the annual notification process is mandatory.
4. EOC. Explain that the revised EOC or similar document is enclosed or will be sent under separate cover as soon as it is printed. If none of the information contained in the EOC has changed, health plans may send out the most recent version, however it must clearly indicate that it is for the coming year. For instance, if the EOC was originally used for 1999 and nothing will change in 2000, the plan needs to overprint or stamp the front cover of the EOC to say that it remains in effect in 2000.

5. New Medicare Covered Benefits. If Medicare covers new benefits, list and clearly explain them in the notice.
6. Contact for More Information. List the department and phone number where members can receive additional information on benefit and other changes. Include a TTY/TDD phone number “for the hearing impaired.”
7. Supplemental benefits. Any optional supplemental benefits and the premiums for those benefits must also be described. A description of the process that the member must follow to elect optional supplemental benefits must also be included.
8. Disclosure Upon Request. The cover letter or note must include the fact that the following information is available upon request:
  - o Additional information from HCFA by calling 1-800 MEDICARE.
  - o Additional information from the M+CO on the procedures the organization uses to control utilization of services and expenditures.
  - o Additional information from the M+CO on the number of disputes (both grievances and appeals), and their disposition in aggregate.
  - o A summary description from the M+CO of the method of compensation for physicians. [Note to M+COs: This is the disclosure, upon request, of Physician Incentive Plan information required by 42 CFR 422.210(b)(1)-(4)]
  - o A description from the M+CO of the financial condition of the M+CO offering the plan, including a summary of the most recently audited statement.